

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

ADREA, LLC,

Plaintiff,

- against -

BARNES & NOBLE, INC.,
BARNESANDNOBLE.COM LLC, and
NOOK MEDIA LLC,

Defendants.

ECF Case

13-CV-4137 (JSR)

**DECLARATION OF YUE-HAN CHOW IN SUPPORT OF DEFENDANTS’
MOTION FOR SUMMARY JUDGMENT**

I, Yue-Han Chow, declare under penalty of perjury as follows:

1. I am a member of the Bar of the State of New York and an associate at the law firm of Arnold & Porter LLP, attorneys for Defendants and Counterclaim-Plaintiffs Barnes & Noble, Inc., barnesandnoble.com llc, and NOOK Media LLC (collectively, “Defendants” or “B&N”).

2. I make this Declaration in support of Defendants' Motion for Summary Judgment.

3. Attached hereto as Exhibit A is a true and correct copy of the Complaint, filed June 13, 2013.

4. Attached hereto as Exhibit B is a true and correct copy of a printout of the webpage “NOOK® for iPad® and iPhone®,” available at <http://www.barnesandnoble.com/u/nook-for-ipad-iphone-ipod-touch/379003589/>.

5. Attached hereto as Exhibit C is a true and correct copy of a printout of the webpage “NOOK® for Android™,” available at <http://www.barnesandnoble.com/u/nook-for-android/379003595>.

6. Attached hereto as Exhibit D, under seal pursuant to protective order, is a true and correct copy of the Formation and Framework Agreement, dated August 25, 2010, labeled ADREA0019612-660.

7. Attached hereto as Exhibit E is a true and correct copy of a printout of the webpage “NOOK® for Windows 8,” available at <http://www.barnesandnoble.com/u/nook-for-windows-8/379003757>.

8. Attached hereto as Exhibit F is a true and correct copy of excerpts of Adrea’s Objections and Responses to Defendants’ Requests for Admission, dated November 22, 2013.

9. Attached hereto as Exhibit G is a true and correct copy of B&N’s FY2013 Form 10-K, labeled BN-ADREA009532-9693.

10. Attached hereto as Exhibit H is a true and correct copy of US Patent 6,091,409, dated July 18, 2000, labeled BN-ADREA043037-43081.

11. Attached hereto as Exhibit I is a true and correct copy of the Introduction into Adrea labeled ADREA0010542-0545.

12. Attached hereto as Exhibit J is a true and correct copy of a printout of the webpage “Barnes & Noble Booksellers Frequently Asked Questions,” available at <http://www.barnesandnobleinc.com/misc/faq.html#shareholder>.

13. Attached hereto as Exhibit K is a true and correct copy of a printout of the webpage “Bloomberg Businessweek, Company Overview of Barnesandnoble.com,” available at “<http://investing.businessweek.com/research/stocks/private/snapshot.asp?privcapId=47614768>.”

14. Attached hereto as Exhibit L is a true and correct copy of a printout of the webpage “About Barnes & Noble.com,” available at <http://www.barnesandnoble.com/help/cds2.asp?PID=8184>.

15. Attached hereto as Exhibit M is a true and correct copy of a printout of a Barnes & Noble press releases, entitled “Barnes & Noble and Microsoft Complete Strategic Partnership in new subsidiary, NOOK Media LLC,” dated October 4, 2012, available at http://www.barnesandnobleinc.com/press_releases/10_4_12_bks_msft_final_deal_close.html.

16. Attached hereto as Exhibit N, under seal pursuant to Protective Order, is a true and correct copy of excerpts from the deposition transcript of Talal Shamoon, taken on October 22, 2013.

17. Attached hereto as Exhibit O is a true and correct copy of US Patent 7,298,851, dated November 20, 2007, labeled ADREA0000001-97.

18. Attached hereto as Exhibit P is a true and correct copy of US Patent 7,299,501, dated November 20, 2007, labeled ADREA0000098-153.

19. Attached hereto as Exhibit Q is a true and correct copy of US Patent 7,620,703, dated November 17, 2009, labeled ADREA0000154-63.

20. Attached hereto as Exhibit R is a true and correct copy of Adrea’s Final Election of Asserted Claims, dated December 5, 2013.

21. Attached hereto as Exhibit S, under seal pursuant to Protective Order, is a true and correct copy of excerpts from the deposition transcript of Brian Berg, taken on January 14, 2014.

22. Attached hereto as Exhibit T, is a true and correct copy of Plaintiff Adrea, LLC’s Disclosure Of Asserted Claims And Infringement Contentions, dated August 16, 2013.

23. Attached hereto as Exhibit U is a true and correct copy of Plaintiff Adrea, LLC's First Supplemental Disclosure of Asserted Claims And Infringement Contentions, dated November 20, 2013.

24. Attached hereto as Exhibit V, under seal pursuant to Protective Order, is a true and correct copy of the Expert Report of B. Clifford Neuman, regarding the Non-Infringement of U.S. Patent Nos. 7,620,703, 7,299,501 and 7,298,851, dated December 30, 2013.

25. Attached hereto as Exhibit W is a true and correct copy of excerpts from the NOOK Classic User Guide, labeled ADREA0006404-627.

26. Attached hereto as Exhibit X is a true and correct copy of excerpts from the NOOK Simple Touch User Guide, labeled BN-ADREA000276-395.

27. Attached hereto as Exhibit Y is a true and correct copy of excerpts from the NOOK Simple Touch with Glowlight User Guide, labeled BN-ADREA046119-46244.

28. Attached hereto as Exhibit Z is a true and correct copy of excerpts from the NOOK Glowlight User Guide, labeled BN-ADREA045973-46096.

29. Attached hereto as Exhibit AA is a true and correct copy of excerpts from the NOOK Color User Guide, labeled ADREA0006664-6846.

30. Attached hereto as Exhibit BB is a true and correct copy of excerpts from the NOOK Tablet User Guide, labeled BN-ADREA000786-967.

31. Attached hereto as Exhibit CC is a true and correct copy of excerpts from the NOOK HD User Guide, labeled BN-ADREA002394-2517.

32. Attached hereto as Exhibit DD is a true and correct copy of excerpts from the NOOK HD Plus User Guide, labeled BN-ADREA002833-2960.

33. Attached hereto as Exhibit EE, under seal pursuant to Protective Order, is a true and correct copy of excerpts from the Expert Report of Brian A. Berg regarding Infringement of U.S. Patent Nos. 7,620,703, 7,299,501 and 7,298,851, dated December 11, 2013.

34. Attached hereto as Exhibit FF, under seal pursuant to Protective Order, is a true and correct copy of Exhibit CC-2 to the Expert Report of Brian A. Berg regarding Infringement of U.S. Patent Nos. 7,620,703, 7,299,501 and 7,298,851, dated December 11, 2013.

35. Attached hereto as Exhibit GG is a true and correct copy of the Claims Construction Order signed by the Honorable Jed Rakoff, dated November 27, 2013.

36. Attached hereto as Exhibit HH, under seal pursuant to Protective Order, is a true and correct copy of excerpts from the deposition transcript of Sudeep Narain, taken on November 13, 2013.

37. Attached hereto as Exhibit II, under seal pursuant to Protective Order, is a true and correct copy of Exhibit CC-1 to the Expert Report of Brian A. Berg regarding Infringement of U.S. Patent Nos. 7,620,703, 7,299,501 and 7,298,851, dated December 11, 2013.

38. Attached hereto as Exhibit JJ, under seal pursuant to Protective Order, is a true and correct copy of the Diablo-Device Manager, labeled BN-ADREA047186-194.

39. Attached hereto as Exhibit KK, under seal pursuant to Protective Order, is a true and correct copy of Exhibit CC-3 to the Expert Report of Brian A. Berg regarding Infringement of U.S. Patent Nos. 7,620,703, 7,299,501 and 7,298,851, dated December 11, 2013.

40. Attached hereto as Exhibit LL, under seal pursuant to Protective Order, is a true and correct copy of excerpts from the deposition transcript of Deepak Mulchandani, taken on October 14, 2013.

41. Attached hereto as Exhibit MM, under seal pursuant to Protective Order, is a true and correct copy of Exhibit 4 to the Expert Report of B. Clifford Neuman, regarding the Non-Infringement of U.S. Patent Nos. 7,620,703, 7,299,501 and 7,298,851, dated December 30, 2013.

42. Attached hereto as Exhibit NN, under seal pursuant to Protective Order, is a true and correct copy of the Expert Report of Dr. Xin Wang, dated December 30, 2013.

43. Attached hereto as Exhibit OO is a true and correct copy of excerpts from the deposition transcript of Dr. Xin Wang, taken January 21, 2014.

44. Attached hereto as Exhibit PP is a true and correct copy of the Preliminary Application that led to US Patent No. 7,299,501 Patent, labeled ADREA0056106-56118.

45. Attached hereto as Exhibit QQ is a true and correct copy of the Office Action mailed on March 22, 2005, regarding the application that led to US Patent No. 7,299,501, labeled ADREA0058616-632.

46. Attached hereto as Exhibit RR is a true and correct copy of the Preliminary Amendment dated March 2, 2006, regarding the application that led to US Patent No. 7,299,501, labeled ADREA0058678-688.

47. Attached hereto as Exhibit SS is a true and correct copy of Notice of Allowance and Notice of Allowability dated November 20, 2006, regarding the application that led to US Patent No. 7,299,501, labeled ADREA0058783-58786.

48. Attached hereto as Exhibit TT, under seal pursuant to Protective Order, is a true and correct copy of excerpts from the deposition transcript of Susan Lally, taken on December 9, 2013.

49. Attached hereto as Exhibit UU is a true and correct copy of the 2006 Amendment following Final Rejection, regarding the application that led to US Patent No. 7,298,851.

50. Attached hereto as Exhibit VV is a true and correct copy the US Patent No. 5,761,485 (Munyan), dated June 2, 1998, labeled BN-ADREA042954-42968.

51. Attached hereto as Exhibit WW is a true and correct copy of the US Patent No. 6,389,463 (Bolas), dated March 14, 2002, labeled BN-ADREA043119-129.

52. Attached hereto as Exhibit XX is a true and correct copy of PCT Publication No. WO1993/09490 (Saigh), dated May 13, 1999, labeled BN-ADREA040969-1030.

53. Attached hereto as Exhibit YY is a true and correct copy of the US Patent No. 5,734, 891 (Saigh), dated March 31, 1998 labeled BN-ADREA040804-827.

54. Attached hereto as Exhibit ZZ is a true and correct copy the May 1, 2006 Amendment following Final Rejection, regarding the application that led to US Patent 7,298,851..

55. Attached hereto as Exhibit AAA is a true and correct copy the US Patent No. 4,845, 658 (Gifford), dated July 4, 1989, labeled BN-ADREA044324-434.

56. Attached hereto as Exhibit BBB is a true and correct copy of an article entitled “An Architecture for Large Scale Information Systems,” authored by David K. Gifford, Robert W. Baldwin, Stephen T. Berlin, and John M. Lucassen, and published by the Association for Computing Machinery in December 1985, labeled BN-ADREA043770-43779.

57. Attached hereto as Exhibit CCC is a true and correct copy of a printout of Think2Loud’s webpage entitled “Google Chrome - Full Screen Kiosk Mode,” available at <http://think2loud.com/868-google-chrome-full-screen-kiosk-mode/>.

58. Attached hereto as Exhibit DDD, under seal pursuant to Protective Order, is a true and correct copy of the Patent License and Settlement Agreement, labeled ADREA00007435-7465.

59. Attached hereto as Exhibit EEE, under seal pursuant to Protective Order, is a true and correct copy of the Patent Cross-License Agreement, labeled ADREA0007485 -7516.

60. Attached hereto as Exhibit FFF, , is a true and correct copy of an article by Brian P. Schanning, entitled “Applying Public Key Distribution to Local Area Networks” (1982), labeled BN-ADREA0043816-822.

61. Attached hereto as Exhibit GGG, under seal pursuant to Protective Order, is a true and correct copy of a December 16, 2011 email from G. DeFelice to S. Ambwani regarding Adrea, labeled ADREA0016943-48.

62. Attached hereto as Exhibit HHH, under seal pursuant to Protective Order, is a true and correct copy of a March 25, 2012 email from S. Ambwani to J. Snow regarding Adrea attaching BN_ADREA Claims Illustrations, labeled ADREA016951-56. Also attached hereto as Exhibit HHH, under seal pursuant to Protective Order, is a true and correct copy of the Claims Illustrations for Barnes & Noble, labeled ADREA016957-97.

63. Attached hereto as Exhibit III is a true and correct copy of the August 10, 2006 Non-Final Rejection, regarding the application that led to US Patent 7,298,851.

64. Attached hereto as Exhibit JJJ, under seal pursuant to Protective Order, is a true and correct copy of a March 8, 2011 email from S. Ambwani to J. Snow regarding Adrea, labeled ADREA0024869-73.

65. Attached hereto as Exhibit KKK, under seal pursuant to Protective Order, is a true and correct copy of a October 24, 2013 Letter from K. McArthur to J. McDow, labeled ADREA0111177.

66. Attached hereto as Exhibit LLL, under seal pursuant to Protective Order, is a true and correct copy of excerpts from the deposition transcript of J. McDow, taken on October 23, 2013.

67. Attached hereto as Exhibit MMM, under seal pursuant to Protective Order, is a true and correct copy of excerpts from the deposition transcript of Shawn Ambwani, taken on October 25, 2013.

68. Attached hereto as Exhibit NNN, under seal pursuant to Protective Order, is a true and correct copy of excerpts from the deposition transcript of B. Clifford Neuman, taken on January 24, 2014.

69. Attached hereto as Exhibit OOO, under seal pursuant to Protective Order, is a true and correct copy of excerpts from the deposition transcript of Bharath Kalyan, taken on November 8, 2013.

70. Attached hereto as Exhibit PPP is a true and correct copy of the original Application that led to US Patent 7,620,703, labeled ADREA0059070-088.

71. Attached hereto as Exhibit QQQ is a true and correct copy of the November 20, 2008 Response to Office Action of August 20, 2008, regarding the application that led to US Patent 7,620,703, labeled ADREA0059361-372.

72. Attached hereto as Exhibit RRR is a true and correct copy of US Patent No. 5,204,897 (Wyman), dated April 20, 1993, labeled BN-ADREA041210-256.

73. Attached hereto as Exhibit SSS is a true and correct copy of US Patent No. 5,247,575 (Sprague), dated September 21, 1993, labeled BN-ADREA045461-486.

74. Attached hereto as Exhibit TTT is a true and correct copy of US Patent No. 5,297,249 (Bernstein), dated March 22, 1994, labeled BN-ADREA040082-126.

75. Attached hereto as Exhibit UUU is a true and correct copy of US Patent No. 5,598,470 (Cooper), dated January 28, 1997, labeled BN-ADREA040695-737.

76. Attached hereto as Exhibit VVV is a true and correct copy of US Patent No. 5,222,134 (Waite), dated June 22, 1993, labeled BN-ADREA043573-582.

77. Attached hereto as Exhibit WWW is a true and correct copy of US Patent No. 5,303,379 (Khoyi), dated April 12, 1994, labeled BN-ADREA039655-709.

78. Attached hereto as Exhibit XXX is a true and correct copy of US Patent No. 5,564,038 (Grantz), dated October 8, 1996, labeled BN-ADREA041453-459.

79. Attached hereto as Exhibit YYY is a true and correct copy of excerpts from the deposition transcript of Yevgeniy Eugene Shteyn, taken on October 8, 2013.

80. Attached hereto as Exhibit ZZZ, under seal pursuant to Protective Order, is a true and correct copy of excerpts from the deposition transcript of John Hendricks, taken on November 8, 2013.

81. Attached hereto as Exhibit AAAA is a true and correct copy of a printout of PCWorld's webpage "How to Change Your Web Browser Home Page," available at http://www.pcworld.com/article/241716/how_to_change_your_web_browser_home_page.html.

82. Attached hereto as Exhibit BBBB is a true and correct copy of a printout of the webpage for Google's Chrome browser, available at <http://www.google.com/intl/en/chrome/browser/>.

83. Attached hereto as Exhibit CCCC is a true and correct copy of a printout of Google's Chrome webpage "Windows keyboard shortcuts," available at <https://support.google.com/chrome/answer/157179?hl=en>.

84. Attached hereto as Exhibit DDDD, is a true and correct copy of the Expert Report of B. Clifford Neuman, regarding the Invalidity of U.S. Patent Nos. 7,620,703, 7,299,501 and 7,298,851, dated December 11, 2013.

85. Attached hereto as Exhibit EEEE is a true and correct copy of an invalidity chart for US Patent 7,620,703.

86. Attached hereto as Exhibit FFFF is a true and correct copy of an invalidity chart for US Patent 7,299,501.

87. Attached hereto as Exhibit GGGG is a true and correct copy of an invalidity chart for US Patent 7,298,851.

88. Attached hereto as Exhibit HHHH is a true and correct copy of the Response to Office Action dated August 22, 2006, regarding the application that led to US Patent No. 7,299,501, labeled ADREA0058714-728.

89. Attached hereto as Exhibit IIII is a true and correct copy of The Response Expert Report of Professor Magee, dated December 30, 2013.

90. Attached hereto as Exhibit JJJJ, under seal pursuant to Protective Order, is a true and correct copy of a March 1, 2011 email from J. Snow to S. Ambwani regarding Adrea, labeled ADREA0010539-41.

91. On January 27, 2014 and January 28, 2014, an Arnold & Porter employee purchased three e-readers under my direction: 1) a Sony PRS T-2; 2) an Amazon Kindle Paperwhite ; and 3) an Amazon Kindle 8GB Fire. The three e-readers were purchased at B&H, a store located at 420 9th Avenue, New York, NY 10001.

92. On January 31, 2014, I personally opened the packaging of each of the e-readers and reviewed all the markings on each of the three e-reader devices as well as the markings on the packaging for each of the three e-readers.

93. The Sony PRS T-2 e-reader has no markings referring to any patents. More specifically, this device had no markings referring to the 851, 501, or 703 Patents, nor is it marked with a free-to-access web address that associates the Sony e-Reader device to the 851, 501 or 703 Patents.

94. Similarly, neither the Kindle Paperwhite reader nor the Kindle Fire e-reader has any markings referring to any patents. Specifically, neither of the two Kindle devices has markings referring to the 851, 501, or 703 Patents, nor is either of them marked with a free-to-access web address that associates the Kindle device to the 851, 501 or 703 Patents.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in New York, New York, this 31st day of January, 2014



Yue-Han Chow